

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 04-10991-NG

KENNETH M. WHITE and	)
MANDY DIAS	)
	)
Plaintiff	)
	)
vs.	)
	)
ERIC MADONNA and CITY OF	)
FALL RIVER,	)
	)
Defendants	)

**AFFIDAVIT OF ATTORNEY JAMES HODGSON**

I, JAMES HODGSON, do hereby swear and affirm as follows:

1. I am an associate attorney in the Law Offices of Beauregard, Burke & Franco, attorneys for Plaintiff Kenneth White.
2. I am a member in good standing of the Massachusetts Bar and I am admitted and qualified to practice as an attorney in the U.S. District Court, District of Massachusetts.
3. With respect to this Court's Order of April 29, 2005 to compel discovery, I telephoned Defendants' attorneys Thomas McGuire and Gary P. Howayeck on May 18, 2005 in a good faith effort to resolve issues concerning Plaintiffs' written discovery and to remind them of the Court's Order. I was told that attorneys McGuire and Howayeck were absent from their offices or were otherwise engaged on that day and time. My request for a return telephone call was ignored.

4. On May 19, 2005, I again telephoned Defendants' attorneys Thomas McGuire and Gary P. Howayeck in a good faith effort to remind them of the Court's Order and to resolve the underlying issue concerning discovery. Once again, I was told that attorneys McGuire and Howayeck were absent from their offices or were otherwise engaged on that day and time.

5. I therefore dictated a detailed message to opposing counsels' legal secretary on that day and time to the effect that Plaintiffs intended to file a Motion for Sanctions if Defendants failed to obey the Court's Order within three days, that is, by May 23, 2005.

6. Defendants' attorneys did not return my telephone calls and answers and responses to written discovery were not forthcoming.

7. Since the Court issued a revised Scheduling Order on February 28, 2005, Defendants' have consistently and continuously ignored my numerous good faith efforts to gain answers and responses to written discovery.

8. To this date, Defendants have not obeyed the Court's Order of April 29, 2005.

SIGNED, under the pains and penalties of perjury, this 6th day of June 2005.

/s/ James Hodgson  
JAMES HODGSON